

October 5, 2023

VIA ECF

Magistrate Judge Sanket J. Bulsara
United States District Court
Eastern District of New York
Chambers 304N, Courtroom 13C South
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *The Fortune Society Inc. v iAfford NY LLC*; No. 22-cv-06584 (the “**Action**”)
Letter Motion Requesting a Briefing Schedule/Hearing on Plaintiff’s Motion

Dear Magistrate Judge Bulsara:

This office is counsel to iAfford NY LLC (“**iAfford**”) in the above Action. I write with respect to the motion filed by counsel to plaintiff, The Fortune Society Inc. (“**Fortune**”), purporting to compel compliance with post judgment discovery and for sanctions (the “**Motion**”, Doc. No. 50-51).

The Motion was filed yesterday and referred to Your Honor by Judge Pamela K. Chen this afternoon (Doc. No. 52). It is unclear from Fortune’s Motion when the same is returnable, and/or when opposition papers are to be filed responsive to the same. I write to, respectfully, request that the Court allow iAfford sufficient time to respond to the factual misstatements and unsupported legal arguments set forth in the Motion, and to otherwise oppose the relief requested therein. I further request that the Court schedule a hearing for oral argument prior to issuing a decision on the Motion.

Fortune’s Motion is a “Discovery Motion”. Judge Chen’s Individual Practice Rules 3(A) require that a party request a pre-motion conference prior to the filing of any such motion. Alternatively, the Motion fails to comply with Your Honor’s Individual Practice Rule IV (B), in that it was not filed as a “letter motion”, exceeds five (5) pages in length, and attaches “correspondence between the parties, including ... emails”, (*see* Individual Practice Rule IV [B]). These emails include confidential settlement communications in flagrant violation of Rule 408 of the Federal Rules of Evidence. Moreover, Fortune failed to engage in any efforts, pursuant to Local Civil Rule 26.4 and Federal Rule 37(a)(1), to resolve this dispute in good faith, or to include a certification of such efforts in the papers. My office attempted to resolve the discovery dispute that is the subject of this motion, as set forth below. As such, the Motion should be denied outright, as procedurally defective.

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Nonetheless, to the extent the Court is willing to entertain the Motion, despite the procedural defects, I write to confirm that, according to Your Honor's rules, the deadline for a party to oppose the Motion should fall no earlier than, October 10, 2023, given that the fifth day after the filing and service of the Motion falls on October 9, 2023, which is a recognized Federal holiday (FRCP 6[a][1][c]). I note that the Motion was filed at a time that my clients, observant members of the Jewish community, are unavailable to address the same. The subject subpoena, likewise, was served on the eve of the Rosh Hashana holiday, and I advised opposing counsel that my client would respond to the same at the conclusion of Yom Kippur, Sukkot and Simchat Torah, or on October 13, 2023. Given the foregoing, I respectfully request that the time to oppose the Motion be adjourned by the Court to no earlier than October 13, 2023 to allow my clients to appropriately respond.

Respectfully Submitted,



Cori A. Rosen

Cc: All Counsel of Record (via ECF)